

NOTICE OF FINAL RULEMAKING

TITLE 9. HEALTH SERVICES

CHAPTER 22. ARIZONA HEALTH CARE COST CONTAINMENT SYSTEM (AHCCCS)

PREAMBLE

- | <u>1. Sections Affected</u> | <u>Rulemaking Action</u> |
|------------------------------------|---------------------------------|
| R9-22-1902 | Amend |
| R9-22-1903 | Amend |
| R9-22-1904 | Amend |
| R9-22-1905 | Amend |
| R9-22-1907 | Amend |
| R9-22-1908 | Amend |
| R9-22-1909 | Repeal |
| R9-22-1909 | New Section |
| R9-22-1910 | Repeal |
| R9-22-1911 | Repeal |
| R9-22-1912 | Repeal |
| R9-22-1913 | Amend |
| R9-22-1914 | Repeal |
| R9-22-1915 | Amend |
| R9-22-1916 | Repeal |
| R9-22-1917 | Repeal |
| R9-22-1919 | Amend |
| R9-22-1920 | Repeal |
- 2. The specific authority for the rulemaking, including both the authorizing statute (general) and the statutes the rules are implementing (specific):**
- Authorizing statute: A.R.S. §§ 36-2901, 36-2903.01(F)
- Implementing statute: A.R.S. §§ 36-2903.01(F), 36-2929
- 3. The effective date of the rules:**
- The rules will be effective 60 days from the date of filing with the Secretary of State.
- 4. A list of all previous notices appearing in the *Register* addressing the final rules:**
- Notice of Docket Opening: 14 A.A.R. 3501, September 5, 2008
- Notice of Proposed Rulemaking: 14 A.A.R. 3732, October 3, 2008
- 5. The name and address of agency personnel with whom persons may communicate regarding the rulemaking:**
- Name: Mariaelena Ugarte
- Address: AHCCCS

Office of Administrative Legal Services
701 E. Jefferson, Mail Drop 6200
Phoenix, AZ 85034

Telephone: (602) 417-4693
Fax: (602) 253-9115
E-mail: AHCCCSRules@azahcccs.gov

6. An explanation of the rule, including the agency's reasons for initiating the rule:

The Administration made the following changes to this rulemaking pursuant to a 5-year-Review Report approved by the Governor's Regulatory Review Council on August 5, 2008.

7. A reference to any study relevant to the rule that the agency reviewed and either relied on in its evaluation of or justification for the rule or did not rely on in its evaluation of or justification for the rule, where the public may obtain or review each study, all data underlying each study, and any analysis of each study and other supporting material:

No study was reviewed during this rulemaking and the Agency does not anticipate reviewing any studies.

8. A showing of good cause why the rule is necessary to promote a statewide interest if the rule will diminish a previous grant of authority of a political subdivision of this state:

Not applicable

9. The summary of the economic, small business, and consumer impact:

It is anticipated that the contractors, private sector, members, providers, small businesses, political subdivisions, and the Administration will be minimally impacted by the changes to the rule language. The areas requiring revision are for clarity as a result of a 5-Year-Rule-Review approved by the Governor's Regulatory Review Council.

10. A description of the changes between the proposed rules, including supplemental notices, and final rules (if applicable):

No substantive changes have been made between the proposed rules and the final rules. The Administration made the rules more clear, concise, and understandable by making grammatical, verb tense, punctuation, and structural changes throughout the rules.

11. A summary of the comments made regarding the rule and the agency response to them:

No comments were received by the Administration regarding the rules.

12. Any other matters prescribed by statute that are applicable to the specific agency or to any specific rule or class of rules:

Not applicable

13. Incorporations by reference and their location in the rules:

Not applicable

14. Was this rule previously adopted as an emergency rule?

No

15. The full text of the rules follows:

TITLE 9. HEALTH SERVICES

CHAPTER 22. ARIZONA HEALTH CARE COST CONTAINMENT SYSTEM ADMINISTRATION

ARTICLE 19. FREEDOM TO WORK

Section

R9-22-1902. General Administration Requirements

R9-22-1903. Application for Coverage

R9-22-1904. Notice of Approval or Denial

R9-22-1905. Reporting and Verifying Changes

R9-22-1907. Notice of Adverse Action Requirements

R9-22-1908. Request For Hearing

R9-22-1909. ~~Social Security Number~~ Conditions of Eligibility

R9-22-1910. ~~State Residency~~ Repealed

R9-22-1911. ~~Citizenship and Immigrant Status~~ Repealed

R9-22-1912. ~~Age~~ Repealed

R9-22-1913. Premium Requirements

R9-22-1914. ~~Income~~ Repealed

R9-22-1915. Institutionalized Person

R9-22-1916. ~~Non Payment of Premium~~ Repealed

R9-22-1917. ~~Applicant and Member Responsibility~~ Repealed

R9-22-1919. Additional Eligibility Criteria for the Medically Improved Group

R9-22-1920. ~~Premium Amount~~ Repealed

TITLE 9. HEALTH SERVICES

CHAPTER 22. ARIZONA HEALTH CARE COST CONTAINMENT SYSTEM ADMINISTRATION

ARTICLE 19. FREEDOM TO WORK

R9-22-1902. General Administration Requirements

The Administration shall comply with the confidentiality rule under ~~R9-22-1501(B) and Title VI compliance rule under R9-22-1501(M). Terms used in this Article are defined in Article 1 of this Chapter unless otherwise specified.~~
R9-22-512(C).

R9-22-1903. Application for Coverage

- A.** A person may apply by submitting ~~a signed~~ an application to an Administration office.
- B.** The application date is the date the application is received at an Administration office or outstation location approved by the Director as described under R9-22-1406 (A).
- C.** The provisions in ~~R9-22-1405(B), (C) and (E)~~ R9-22-1406(B) and (D) apply to this Section.
- D.** The applicant or representative who files the application may withdraw the application for coverage either orally or in writing. An applicant withdrawing an application shall receive a denial notice under R9-22-1904.
- E.** Except as provided in 42 CFR 435.911, the Administration shall determine eligibility within 45 days.

R9-22-1904. Notice of Approval or Denial

The Administration shall send an applicant a written notice of the decision regarding the application. This notice shall include a statement of the action, and:

- 1. If approved, the notice shall contain:
 - a. The effective date of eligibility,
 - b. The amount the person shall pay, and
 - c. An explanation of the person's hearing rights specified in ~~Article 8 of this Chapter~~ 9 A.A.C. 34.
- 2. If denied, ~~R9-22-1501(F)(3)~~ R9-22-1501 (G)(3) applies.

R9-22-1905. Reporting and Verifying Changes

An applicant or member shall report and verify changes, as described under ~~R9-22-1501(G)(3), (4), (5), and (6)~~ R9-22-1501(H), to the Administration, ~~the following changes:~~

1. ~~Change of address,~~
2. ~~Change in income,~~
3. ~~Change in employment status,~~
4. ~~Change in school attendance if under age 22,~~
5. ~~Change in Arizona state residency;~~
6. ~~Change in first or third party liability which may contribute to the payment of all or a portion of the person's medical costs,~~
7. ~~Admission to a public institution,~~
8. ~~Admission to an Institution for Mental Disease,~~
9. ~~Improvement in the person's medical condition,~~
10. ~~Death,~~
11. ~~Change in U.S. citizenship or immigrant status,~~
12. ~~Change in disability status,~~
13. ~~Change in impairment related work or other expenses, or~~
14. ~~Any other change that may affect the member or applicant's eligibility.~~

R9-22-1907. Notice of Adverse Action Requirements

- A. The requirements under ~~R9-22-1501(J)(1)~~ R9-22-1501(K)(1) apply.
- B. Advance notice of a change in eligibility or premium amount. Advance notice means a notice of proposed action that is issued to the member at least 10 days before the effective date of the proposed action. Except under subsection (C), advance notice shall be issued whenever an adverse action is taken to discontinue eligibility, or increase the premium amount.
- C. Exceptions from advance notice. A notice shall be issued to the member to discontinue eligibility no later than the effective date of action if:
 1. A member provides a clearly written statement, signed by that member, that services are no longer wanted.

2. A member provides information that requires termination of eligibility or reduction of services, indicates that the member understands that this must be the result of supplying that information. and ~~a~~ the member signs a written statement waiving advance notice;
3. A member cannot be located and mail sent to the member's last known address has been returned as undeliverable subject to reinstatement of discontinued services under 42 CFR 431.231(d);
4. A member has been admitted to a public institution where a person is ineligible for coverage;
5. A member has been approved for Medicaid in another state; or
6. The Administration receives information confirming the death of a member.

R9-22-1908. Request for Hearing

An applicant or member may request a hearing under 9 A.A.C. 34. ~~Article 8 of this Chapter for the following adverse actions:~~

1. ~~The determination of a premium amount under R9-22-1920, and~~
2. ~~Actions listed in R9-22-803.~~

R9-22-1909. Social Security Number Conditions of Eligibility

~~As a condition of eligibility, an applicant shall furnish a valid SSN.~~

An applicant or member shall meet the following conditions to qualify for the Freedom to Work program:

1. Furnish a valid Social Security Number (SSN);
2. Be a resident of Arizona;
3. Be a citizen of the United States, or meet requirements for a qualified alien under A.R.S. § 36-2903.03(B);
4. Be at least 16 years of age, but less than 65 years of age;
5. Have countable income that does not exceed 250 percent of FPL. The Administration shall count the income under 42 U.S.C. 1382a and 20 CFR 416 Subpart K with the following exceptions:
 - a. The unearned income of the applicant or member shall be disregarded,
 - b. The income of a spouse or other family member shall be disregarded, and
 - c. The deduction for a minor child shall not apply;
6. Comply with the member responsibility provisions under R9-22-1502(D) and (F).

R9-22-1910. State Residency Repealed

~~As a condition of eligibility, an applicant or member shall be a resident of Arizona.~~

R9-22-1911. ~~Citizenship and Immigrant Status~~ Repealed

~~As a condition of eligibility an applicant or member shall be a citizen of the United States, or shall meet requirements for qualified alien under A.R.S. § 36-2903.03(B).~~

R9-22-1912. ~~Age~~ Repealed

~~As a condition of eligibility an applicant or member shall be at least 16 years of age, but less than 65 years of age.~~

R9-22-1913. Premium Requirements

~~As a condition of eligibility, an applicant or member shall pay the premium required under R9-22-1920.~~

A. As a condition of eligibility, an applicant or member shall:

1. Pay the premium required under subsection (B).
2. Not have any unpaid premiums for more than one month's premium amount.

B. The Administration shall process premiums under Article 14 of Chapter 31 with the following exceptions:

1. A member who has countable income:
 - a. Under \$500, the monthly premium payment shall be \$0.
 - b. Over \$500 but not greater than \$750, the monthly premium payment shall be \$10.
2. The premium for a member shall be increased by \$5 for each \$250 increase in countable income above \$750.

R9-22-1914. ~~Income~~ Repealed

~~As a condition of eligibility, an applicant or member's countable income shall not exceed 250 percent of FPL. The Administration shall count the income under 42 U.S.C. 1382a and 20 CFR 416 Subpart K with the following exceptions:~~

- ~~1. The unearned income of the applicant or member shall be disregarded,~~
- ~~2. The income of a spouse or other family members shall be disregarded, and~~
- ~~3. The deduction for a minor child shall not apply.~~

R9-22-1915. Institutionalized Person

A person is not eligible for AHCCCS medical coverage if the person is:

1. An inmate of a public institution if federal financial participation (FFP) is not available, or

2. Age 21 through age 64 and is residing in an Institution for Mental Disease under 42 CFR 435.1009 except when allowed under the Administration's Section 1115 IMD waiver or allowed under a managed care contract approved by ~~with~~ CMS.

R9-22-1916. Non-Payment of Premium Repealed

~~As a condition of eligibility, an applicant shall not have unpaid premiums as defined under R9-22-1920.~~

R9-22-1917. Applicant and Member Responsibility Repealed

~~As a condition of eligibility, an applicant or member shall comply with the provisions under R9-22-1502(D) and R9-22-1502(F).~~

R9-22-1919. Additional Eligibility Criteria for the Medically Improved Group

As a condition of eligibility for the Medically Improved Group, a member shall:

1. Be employed. Under this Section, employed means an individual who:
 - a. Earns at least the minimum wage and works at least 40 hours per month, or
 - b. Has gross monthly earnings at least equal to those earned by an individual who is earning the minimum wage working 40 hours per month.
2. Cease to be eligible for medical coverage under R9-22-1918 or a similar Basic Coverage Group program administered by another state because the member, by reason of medical improvement, is determined at the time of a regularly scheduled continuing disability review to no longer be disabled; and
3. Continues to have a severe medically determinable impairment, as determined under ~~regulations of the federal government~~ Social Security Act section 1902(a)(10)(A)(ii)(XVI).

R9-22-1920. Premium Amount Repealed

~~The Administration shall process premiums under Article 14 of this Chapter with the following exceptions:~~

- ~~1. A member who has countable income:~~
 - ~~a. Under \$500, the monthly premium payment shall be \$0.~~
 - ~~b. Over \$500 but not greater than \$750, the monthly premium payment shall be \$10.~~
- ~~2. The premium for a member shall be increased by \$5 for each \$250 increase in countable income above \$750.~~